UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:13-cv-00432-MOC-DSC

OSCAR ADEDAYO IDOWU ADENIJI,)	
Plaintiff,)	
Vs.)) ORDE	R
US DEPARTMENT OF HOMELAND SECURITY; WILLIE MARTIN; MELVIN PEDERSON; AND ROBERT K. WILLIAMS,)))	
)	
Defendants.)	

THIS MATTER is before the court on plaintiff's "Response to Motion to Dismiss" (#46), which was filed May 19, 2014, and signed by plaintiff May 16, 2014. Such Response comes *after* this court's Order (#44) affirming a Memorandum and Recommendation and Judgment (#45) dismissing this case. Further, before the M&R was entered, plaintiff filed two responses to the Motion to Dismiss and then filed objections to the M&R, all of which this court considered in dismissing this action. Finally, the court has reviewed the contents of the response and it does not appear that plaintiff has raised any arguments that would unsettle the court's Judgment.

Plaintiff is advised that this Response is untimely. If he does not agree with the decision the court reached, to wit, that plaintiff's FTCA and Bivens claims are time barred and that this court has no jurisdiction to hear civil claims arising from the Attorney General's decision to commence removal proceedings, adjudicate cases, or execute removal under 8 U.S.C. §1252(g), he has the right to appeal such judgment to the Court of Appeals for the Fourth Circuit.

In accordance with Wilder v. Chairman of the Central Classification Bd., 926 F.2d 367, 371 (4th Cir.)("while not mandated, the preferable practice is to include a statement to all final orders involving *pro se* litigants setting forth the litigants' appellate rights"), cert. denied, 502 U.S. 832 (1991), plaintiff is hereby advised of the right to appeal the Judgment to the Court of Appeals of the Fourth Circuit in the manner described in Rule 3, Federal Rules of Appellate Procedure, by filing a Notice of Appeal with the Clerk of this Court within the time prescribed in Rule 4, Federal Rules of Appellate Procedure, which is **60 days** from entry of the Judgment. Fed.R.App.P. 4(B). Failure to file a Notice of Appeal within the time allowed requires the filing of a motion for extension of time and a notice of appeal within the 30-day period after such time for appeal. Fed. R. App. P. 4(a)(5). See United States ex rel. Leonard v. O'Leary, 788 F.2d 1238, 1240 (7th Cir. 1986).

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's "Response to Motion to Dismiss" (#46) is deemed non-justiciable.

Signed: May 23, 2014

Max O. Cogburn Jr.

United States District Judge